

# **VACS 101 For New Employees**

**Presented by Gary Moore, Agricultural Incentives  
Programs Manager**

- How many of you faced these issues when you started?
  - No real experience in delivering government programs?
  - No interaction with incumbent, previous employee already gone,
    - ❖ No one to ask about duties & responsibilities of implementing VACS?
    - ❖ No one knew how & what to do with AG. BMP Manual or Tracking Program?

# Influences on Conservation Technicians

- Board of Directors, obligate VACS \$
  - VT Continuing Education (Director) Ag. education
  - FSA County Committee, Directors?
- Support local Ag. festivals, & local District fund raising
- USDA NRCS District Conservationist
- Local Government Expectations

# **This is DCR's Perspective about Delivering State Financial Assistance Programs to Farmers**

- CT have lots of other duties as assigned by Directors or District Manager, they are your bosses
- USDA perspective is different than objectives of VACS
  - Not SWAPA&E
- VACS is just about Soil and especially Water

# **Virginia Agricultural Best Management Practices Cost-Share Program (VACS)**

- Why is there a VACS program?
  - VA Constitution Chapter 11: “Further, it shall be the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment and destruction for the benefit, enjoyment and general welfare of the people of the Commonwealth”
  - Code of VA § 10.1 -104.1 A. “The Department with the advice of the Board of Conservation and Recreation and the Virginia Soil and Water Conservation Board and in cooperation with other agencies, organizations and the public as is appropriate, shall assist in the Commonwealth’s nonpoint source pollution management program.”

# **SWCD's to Assist in NonPoint Source pollution management**

- Code of VA § 10.1 -104.1 B. The Department shall be assisted in performing its nonpoint source pollution management responsibilities by Virginia's soil and water conservation districts. Assistance by the soil and water conservation districts in the delivery of local programs and services may include (i) the provision of technical assistance to advance the adoption of conservation management services, (ii) delivery of educational initiatives targeted at youth and adult groups to further awareness and understanding of water quality issues and solutions and (iii) promotion of incentives to encourage voluntary actions by land owners and land managers in order to minimize nonpoint source pollution contributions to state waters.

# WHERE does the money come from?

- Code of VA § 10.1 -2128. Virginia water Quality Improvement Fund established; purposes.
  - A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Natural Resources Commitment Fund hereafter referred to as "the Subfund," which shall be a subfund of the Virginia Water Quality Improvement Fund and administered by the Department of Conservation and Recreation. The Subfund shall be established on the books of the Comptroller. All amounts appropriated and such other funds as may be made available to the Subfund from any other source, public or private, shall be paid into the state treasury and credited to the Subfund. Interest earned on moneys in the Subfund shall remain in the Subfund and be credited to it. Any moneys remaining in the Subfund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Subfund. Moneys in the Subfund shall be used as provided in subsection B solely for the Virginia Agricultural Best Management Practices Cost-Share Program administered by the Department of Conservation and Recreation.

# VACS 101 Topics

- Discussion and Review: About the Program
  - History
  - Guidelines,
    - ❖ BMP Tables & Table of Contents
    - ❖ Watershed & Hydrologic Unit Rankings
    - ❖ Def. of Agriculture & Self Certification form
      - Ag. Production & Products
    - ❖ Priority & Secondary Considerations
    - ❖ Conservation Efficiency Factor (CEF)
    - ❖ How Environmental Laws apply to VACS participants

# VACS 101 Topics (continued)

- ❖ Completion Dates and Carry-over process
- ❖ Spot checks & how they work
- ❖ Practice Failures
- ❖ Transfer of Responsibility Agreement use
- ❖ VACS Program Schedule
- ❖ VACS & other Environmental Programs,  
EQIP, RCPP, TMDL, etc.
- ❖ Glossary
  - Some Important Definitions
- ❖ BMP Specifications (as requested)
- ❖ Other requests?



# History

- 1983 Ken Carter, a young Loudoun county Soil Conservation Service DC was contracted to VA Dept. of Conservation and Historic Resources (now DCR) for 2 years to develop a state cost share program based upon Soil Conservation Service (SCS) Best Management Practices, his contract was extended to 3 years
  - DCR Best Management Practices (BMP) are coded like SCS BMP codes; FR = forestry, SL=soil loss, WP = water protection, WQ = water quality
  - First state BMP (1984) was WQ-1, (1984) Grass Filter Strip Rate = \$0.10/Lin. Ft.
  - Only funded in Chesapeake Bay and Chowan drainage basins

# 1985 BMP Program

- 1985 BMP manual listed 14 BMPs
  - Cost-share rates varied
  - Cropland C-s cap = \$2,000 per landowner
  - Animal Waste C-s cap = \$7,000 per landowner if < \$7,000 AW \$, then up to \$2,000 available for cropland practices, but no more than \$7,000/landowner/year maximum
  - “Districts can not pay on a first come first served basis or by distributing funds equally to all applicants”
  - Innovative BMPs = \$1,000 C-s/landowner

# 1987 Program

- All 47 Districts involved,
- 14 different BMPs
- Chesapeake Bay Program Area
  - Cropland Priority Area; Culpeper, Eastern Shore, Hanover/Caroline, John Marshall, Loudoun, Northern Neck, Three Rivers, Tidewater, Tri-County City (\$3,500 cap cropland or pasture land)
  - Animal Waste Priority Area; Headwaters, Lord Fairfax, Shenandoah Valley 85% of cost-share \$ on AW BMPs (\$7,500/year per landowner cap)
  - Bay Non-priority Area; Colonial, Henricopolis, James River, Monacan, Mountain, Natural Bridge, Peanut, Peter Francisco, Piedmont, Prince William, Robert E. Lee, Thomas Jefferson
- Chowan Basin Program Area
  - Appomattox River, J. R. Horsley, Southside

# 1987 Expanded Program Area

- Now known as Outside the Chesapeake Bay (then the Southern Rivers)
  - SWCDs: Virginia Dare, Southside, Robert E. Lee, Halifax, Pittsylvania,
  - Peaks of Otter, Blue Ridge, Patrick, Skyline, New River, Big Walker, Evergreen, Tazwell, Holston River, Clinch Valley, Lonesome Pine, Natural Tunnel, Daniel Boone
- These Districts could select 3 of 14 BMPs for Cost-share assistance
- Could provide Technical Assistance (TA) for implementation of the other 11

# Historic Funding Levels

- Could not locate records for 1985, (KC says maybe \$200,000+)
- 1987 statewide VACS funding = ~\$1,280,000
- 2017 -2018 VACS funding = \$62,000,000+

<b>Historic Funding and cost structure of VACS Program</b>							
<b>Fiscal Year</b>	<b>Actual BMP Cost</b>	<b>Total Cost-Share Paid</b>	<b>State Cost-Share Paid</b>	<b>Non-State Cost-Share Paid</b>	<b>Other Funding Amount</b>	<b>Farmer Cost Before Tax Credit</b>	<b>Tax Credit Amount Issued</b>
1998	\$6,534,510.11	\$4,063,645.84	\$3,119,585.67	\$944,060.17	\$329,583.37	\$2,141,280.90	\$416,228.26
1999	\$5,914,234.56	\$4,439,154.30	\$4,026,364.92	\$412,789.38	\$213,063.44	\$1,262,016.82	\$350,507.40
2000	\$13,665,995.61	\$8,307,891.08	\$8,247,145.15	\$60,745.93	\$906,150.61	\$4,451,953.92	\$826,214.15
2001	\$15,926,641.61	\$8,029,747.79	\$6,656,428.78	\$1,373,319.01	\$2,575,618.08	\$5,321,275.74	\$810,941.47
2002	\$23,263,067.57	\$8,375,730.49	\$6,590,103.33	\$1,785,627.16	\$6,603,096.74	\$8,284,240.34	\$903,880.05
2003	\$13,894,621.39	\$3,217,772.88	\$2,372,051.63	\$845,721.25	\$5,033,979.95	\$5,642,868.56	\$995,171.35
2004	\$10,201,591.85	\$2,794,389.49	\$2,414,937.33	\$379,452.16	\$3,437,971.92	\$3,969,230.44	\$542,586.51
2005	\$11,255,876.92	\$4,339,334.29	\$3,702,197.42	\$637,136.87	\$2,211,960.41	\$4,704,582.22	\$607,424.88
2006	\$19,457,805.88	\$9,683,332.26	\$8,941,513.15	\$741,819.11	\$2,866,004.94	\$6,908,468.68	\$863,689.42
2007	\$24,855,191.08	\$15,380,874.36	\$14,262,286.83	\$1,118,587.53	\$3,638,152.24	\$5,836,164.48	\$950,122.31
2008	\$24,644,208.65	\$14,021,770.37	\$12,976,639.51	\$1,045,130.86	\$3,177,626.66	\$7,444,811.62	\$1,074,960.76
2009	\$31,503,271.50	\$16,124,924.01	\$15,242,615.17	\$882,308.84	\$5,893,706.63	\$9,484,640.86	\$1,339,704.07
2010	\$37,148,730.88	\$23,523,093.41	\$22,539,567.71	\$983,525.70	\$4,158,980.71	\$9,466,656.76	\$1,450,195.70
2011	\$17,846,990.64	\$10,791,380.40	\$10,343,449.38	\$447,931.02	\$1,933,530.72	\$5,122,079.52	\$981,519.17
2012	\$32,472,795.56	\$21,657,922.60	\$21,447,079.23	\$210,843.37	\$2,887,203.84	\$7,927,669.12	\$1,394,555.40
2013	\$37,203,096.60	\$28,292,986.32	\$27,972,065.48	\$320,920.84	\$3,990,128.97	\$4,919,981.31	\$1,075,043.53
2014*	\$38,907,305.71	\$29,960,106.81	\$27,941,178.37	\$2,018,928.44	\$3,709,008.93	\$5,238,189.97	\$944,772.98
2015*	\$33,274,216.77	\$24,600,874.43	\$23,124,511.67	\$1,476,362.76	\$3,078,136.23	\$5,595,206.11	\$951,999.99
2016**	\$13,760,318.82	\$8,697,652.75	\$8,499,697.95	\$197,954.80	\$516,825.12	\$4,545,840.95	\$749,974.46
<b>State Totals</b>	<b>\$411,730,471.71</b>	<b>\$246,302,583.88</b>	<b>\$230,419,418.68</b>	<b>\$15,883,165.20</b>	<b>\$57,160,729.51</b>	<b>\$108,267,158.32</b>	<b>\$17,229,491.86</b>

\* 2014 and 2015 figures will be adjusted each year as SL-6(T) BMPs that were obligated under the 100% SL-6 funding program are completed

\*\* 2016 figures do not include approved BMPs carried forward into FY 2017 that are awaiting completion

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# What VACS Is & Isn't

- Not an Agricultural program, it is an Environmental Conservation Program
  - It could be with VDACS, VCE, DEQ, or many other agencies, but its not!
- Always about **water** & soil quality our clients are agricultural producers
- Not an agricultural subsidy, loan program
- Not the state's Farm Service Agency
- Not an Agricultural Extension program

# **BMPs to reduce NPS pollutants (N,P, Sediment) from Ag. Land**

- A water quality problem must exist
- Provide a financial incentive to voluntarily address the worst water quality problems first on a field by field basis by implementing BMPs that produce the greatest nutrient and sediment reductions with the least cost to the tax payer



# Who can participate?

- Any individual or privately held business entity operating ag. land within the state
- Commercial agricultural operations
  - Minimum of 5 contiguous acres
  - Minimum of \$1,000 per year of gross receipts for each of the past 5 years from production or sale of agricultural or horticultural products produced on the applicants ag. land

# Agricultural Production & Products

- Production for commercial purposes of crops, livestock & livestock products
  - Including, crops, forage, fruits, vegetables horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, fur bearing animals, milk eggs and furs
    - ❖ EMU ?
    - ❖ Bees, Honey ?

# Hydrologic Unit rankings

- Methodology to assign cost-share \$
  - Is based upon DEQ, NPS assessment, each HU is ranked from 1 to 1237 for N, P, & Sed. then the Hus are ranked according to the sum of the individual pollutant rankings highest 20% = H,
  - Cost share allocations assigned;
    - ❖ 50% of \$ to H ranked HUs (20% of HUs)
    - ❖ 30% of \$ to M ranked HUs (Middle 30% of HUs)
    - ❖ 20% of \$ to L ranked (Lowest 50% of HUs)
  - Districts receive cost-share \$ in proportion to the number of H, M, & L acres in their District as compared to in their drainage basin

# Priority Considerations

- Priority: a low bar to determine eligibility
  - Fund BMPs in highest ranking HU
    - ❖ Exceptions allow funding a high need BMP in a lower ranked HU
  - Within or upstream of an impaired stream segment
  - In fields at least 1/3<sup>rd</sup> Highly Erodible Land
  - BMPs included in an approved resource Management Plan
- Don't forward to Board for funding if it doesn't meet at least one of the above

# Secondary Considerations

- Identify local Districts water quality priorities and concerns
- Narrative statements easily understood by any participant
- Adopted by SWCD Board and approved by Ag. Incentives Program Manager
- Used to rank all cost-share applications
  - ranking worksheet based upon Sec. Cons assures projects are all scored fairly

# Conservation Efficiency Factor (CEF)

- A background calculation based upon 11 different pieces of information, points are awarded for:
  - Location, HU ranking, priority practice, biological priority, bacterial impairment, nutrient impairment, septic impairment, CBP efficiency, lifespan, installation cost, environmental preferences (see section 1, page 18)
- CEF must be considered when awarding cost-share

# Environmental Laws

- We are all subject to Federal environmental laws:
  - Clean Air Act
  - Clean Water Act
  - Endangered species Act
  - Migratory Bird Treaty Act
  - Resource Conservation Recovery Act
  - Safe Drinking Water Act
  - Federal Insecticide, Fungicide & Rodenticide

## **VACS is not subject to:**

- Farm Bill as amended, by federal law
  - However existing VACS guidelines will not allow Districts to award cost-share to producers that are not in compliance with Farm Bill provisions, like Highly Erodible Lands Conservation and Wetlands compliance provisions of the Farm Bill



# VACS & Other Environmental Programs

- Can partner with EQIP, typically for animal waste practices (WP-4, WP-4B)
  - Subject to existing cost-share cap
  - Federal program pays first, then VACS provides cost-share up to allowable percentage rate or maximum cost-share amount
- USDA RCPP, VA has designated \$
- DEQ TMDL, Reimbursed by DEQ

# VACS & Other Programs

- Cannot pay from two different programs for implementing the same practice on the same land (double dipping)
  - Exp. Cannot implement CRSL-6 and SL-6 on same field, paying twice for same conservation treatment

# Completion Dates & Carryovers

- Districts should issue and communicate to the participant anticipated completion dates for every BMP approved
  - Should be appropriate to BMP to be implemented
  - Entered on general tab of Tracking program
    - ❖ If cannot be implemented by the end of the fiscal year that it was approved, then it can be carried over to a new completion date up to one more year

# Carryover BMPs

- Must be actively under construction,
  - Dirt moving, fence post going in
  - Material delivery to site is not under construction
- Requires approval by Board of Directors entered into minutes of meeting

# **Lifespan of a BMP**

- Identified in the BMP specification
- However lifespan does not begin until January 1 of the year following the certification of the BMP
  - Like thoroughbred horses
  - Allows for selection of BMPs early in the calendar year, for inspection later in the year with assurance BMP is still in lifespan

# Spot Checks

- Starting in fiscal 2019 new Chesapeake Bay verification (spot check) procedures
  - Representative of at least two entities must conduct spot checks
  - Structural BMPs will be recertified at two years prior to end of lifespan
  - 5% random draw
- Outside of Chesapeake Bay:
  - 5% of each type completed in previous year
  - And 5% of BMPs in lifespan

# Spot Check Procedures

- If not being maintained:
  - Inform BOD at next meeting of deficiency
  - Inform appropriate agency if other funds involved
  - Call the participant & tell him what the problem is, note date & conversation in file, that may be all that is needed if not resolved then
  - Written notification (certified mail) with description of issue and request for response within two weeks
  - if not addressed within two weeks, maximum grace period 6 months, re-inspect, if not in compliance, written request for return of cost-share funds

# Problem Spot Checks

- If no restitution of cost-share funds after 60 days
- Notify Office of Attorney General for assistance in recovery of state funds
- Calculate per month Cost-share funds deduct months, BMP in compliance, difference is due to SWCD (see page II-



# Carryover Approval

- Board of Director usually at June meeting
  - One fiscal year of carryover may be approved by BOD
  - Stay in contact with participant, call or visit to assess progress
    - ❖ If more time is justified then identify BMP, why and how much additional time is needed to request additional carryover time from Ag. Incentives Program Manager
    - ❖ Be specific about why and how much time is needed

# Practice Failure

- BMPs may fail due to an “extreme act of nature” (defined in glossary)
  - May request one time additional cost-share
    - ❖ Do not enter environmental benefits (already counted)
    - ❖ Put notes in comments section of Tracking identifying original BMP
  - Not in same fiscal year as installation
  - Participants should not put off repairs waiting for cost-share it will cost more

# **Make sure your applicant understands contract part I language, Read it to them if your need to, it will save you a lot time**

- I agree to install and maintain all practices receiving financial incentives according to program specifications. I agree to allow appropriate agency personnel or their designee access to land under my control for the purpose of evaluation, design, construction and inspection of said practice(s) from this date forward through the required lifespan. I agree to refund all or part of the cost-share financial assistance or tax credit I have received if my practice(s) is/are found not to meet program specifications required at the time of installation/payment, or if the practice(s) is/are removed or not properly maintained during the lifespan of the practice(s). I understand that the sale, lease, or changed use of the property will not exempt me from fulfilling this/these requirement(s).

# **Contract Part I language (continued)**

- I also understand that my period of responsibility begins with the acceptance of payment and/or tax credit and extends through the lifespan of the practice in accordance with program requirements. Lifespan is defined as “The number of years a BMP must be maintained in accordance with program standards. The lifespan begins on January 1 of the calendar year following the year of certification of completion.” A BMP is subject to spot check throughout the practice lifespan. The voluntary participation in one or more of the state agricultural incentive programs does not relieve or relinquish me and my farm operation from compliance with ordinances, laws and regulations that may exist at any level of government. I understand that applying to participate in any of the above listed program(s) does not guarantee that any or all of my request will be funded.

## **Practice Failure** (II-26)

- No one want to have to have participant pay back cost-share
- Good practice to read the application (Part I) statement to the to the applicant before they sign, Reduce comments like:
  - I don't control that land any more, its not my responsibility
  - I didn't know I had to maintain it
  - No one told me the BMPs lifespan

# Hardship Process (II-29)

- Used for highly unusual circumstances only
  - Severity = life threatening illness, bankruptcy, other highly unusual situations
  - Not because they sold the land or don't have the money to pay back
- District may act as advocate for participant or participant may appeal to DCR Ad Hoc subcommittee

# Transfer of Responsibility form

- Used when BMP is complete and property is sold, new owner is willing to accept maintenance responsibility for the BMP
- Cannot transfer a BMP application or an approved cost-share contract.
- The contract must be cancelled and a new contract with the correct SSN or Farm ID # & correct W-9

# **Tell your Applicants**

- Cost-share funds will be counted as income
- They are signing a contract, not easily changed
  - Applicants have responsibilities,
    - ❖ Give them an anticipated completion date
  - Districts have responsibilities
    - ❖ Verify that installation is according to standards and specifications



# Conflict of Interest

- If a Director or member of a Directors immediate family (lives with) is requesting cost-share
  - The Director must disclose his interest or relation to the participant AND
  - Remove themselves from the room until after the discussion is complete
    - ❖ Doesn't matter if discussion is in a committee meeting or Board meeting

# Is this a Conflict Of Interest?

- Dad (Director) and Jr. each operate their own farms and operate a LLC farm together, they live in separate households. Can the LLC receive cost-share cost-share?
  - Can dad's farm receive cost-share?
- Jr.'s farm (his SSN) has a cost-share application?
- What if Jr. works for the District?

# BMP Manual; What is it good for?

- The BMP Manual:
  - The manual only says what it says: Do not make assumptions, or imply conclusions, i.e. if *this* is OK then that is OK, NO only *this* is OK
    - ❖ Example: If a two party check can be written to DEQ Loan program & the participant, then a two party check can be written to a local bank or credit union and a participant >>>NO!
  - It's not a cure for insomnia,
  - It's not a novel, no one expects you to read it cover to cover
  - It is a reference book
  - Refer to it, Use the Table of Contents & Glossary